

**§ 416.415 Amount of benefits; eligible individual is disabled child under age 18.**

(a) If you are a disabled child under age 18 and meet the conditions in § 416.1165(i) for waiver of deeming, your parents' income will not be deemed to you and your benefit rate will be \$30 a month.

(b) If you are a disabled child under age 18 and do not meet the conditions in § 416.1165(i) only because your parents' income is not high enough to make you ineligible for SSI but deeming of your parents' income would result in an SSI benefit less than the amount payable if you received benefits as a child under § 416.1165(i), your benefit will be the amount payable if you received benefits as a child under § 416.1165(i).

[60 FR 361, Jan. 4, 1995]

**§ 416.420 Determination of benefits; general.**

Benefits shall be determined for each month. The amount of the monthly payment will be computed by reducing the benefit rate (see §§ 416.410, 416.412, 416.413, and 416.414) by the amount of countable income as figured under the rules in subpart K of this part. The appropriate month's countable income to be used to determine how much your benefit payment will be for the current month (the month for which a benefit is payable) will be determined as follows:

(a) *General rule.* We generally use the amount of your countable income in the second month prior to the current month to determine how much your benefit amount will be for the current month. We will use the benefit rate (see §§ 416.410 through 416.414), as increased by a cost-of-living adjustment, in determining the value of the one-third reduction or the presumed maximum value, to compute your SSI benefit amount for the first 2 months in which the cost-of-living adjustment is in effect. If you have been receiving an SSI benefit and a Social Security insurance benefit and the latter is increased on the basis of the cost-of-living adjustment or because your benefit is recomputed, we will compute the amount of your SSI benefit for January, the month of an SSI benefit in-

crease, by including in your income the amount by which your Social Security benefit in January exceeds the amount of your Social Security benefit in November. Similarly, we will compute the amount of your SSI benefit for February by including in your income the amount by which your Social Security benefit in February exceeds the amount of your Social Security benefit in December.

*Example 1.* Mrs. X's benefit amount is being determined for September (the current month). Mrs. X's countable income in July is used to determine the benefit amount for September.

*Example 2.* Mr. Z's SSI benefit amount is being determined for January (the current month). There has been a cost-of-living increase in SSI benefits effective January. Mr. Z's countable income in November is used to determine the benefit amount for January. In November, Mr. Z had in-kind support and maintenance valued at the presumed maximum value as described in § 416.1140(a). We will use the January benefit rate, as increased by the COLA, to determine the value of the in-kind support and maintenance Mr. Z received in November when we determine Mr. Z's SSI benefit amount for January.

*Example 3.* Mr. Y's SSI benefit amount is being determined for January (the current month). Mr. Y has Social Security income of \$100 in November, \$100 in December, and \$105 in January. We find the amount by which his Social Security income in January exceeds his Social Security income in November (\$5) and add that to his income in November to determine the SSI benefit amount for January.

(b) *Exceptions to the general rule—(1) First month of initial eligibility for payment or the first month of eligibility after a month of ineligibility.* We use your countable income in the current month to determine your benefit amount for the first month you are initially eligible for payment of SSI benefits (see § 416.501) or for the first month you again become eligible for SSI benefits after at least a month of ineligibility. Your payment for a first month of re-eligibility after at least one-month of ineligibility will be prorated according to the number of days in the month that you are eligible beginning with the date on which you regain eligibility.

*Example:* Mrs. Y applies for SSI benefits in September and meets the requirements for eligibility in that month. (We use Mrs. Y's

countable income in September to determine if she is eligible for SSI in September.) The first month for which she can receive payment is October (see §416.501). We use Mrs. Y's countable income in October to determine the amount of her benefit for October. If Mrs. Y had been receiving SSI benefits through July, became ineligible for SSI benefits in August, and again became eligible for such benefits in September, we would use Mrs. Y's countable income in September to determine the amount of her benefit for September. In addition, the proration rules discussed above would also apply to determine the amount of benefits in September in this second situation.

(2) *Second month of initial eligibility for payment or second month of eligibility after a month of ineligibility.* We use your countable income in the first month prior to the current month to determine how much your benefit amount will be for the current month when the current month is the second month of initial eligibility for payment or the second month of reeligibility following at least a month of ineligibility. However, if you have been receiving both an SSI benefit and a Social Security insurance benefit and the latter is increased on the basis of the cost-of-living adjustment or because your benefit is recomputed, we will compute the amount of your SSI benefit for January, the month of an SSI benefit increase, by including in your income the amount by which your Social Security benefit in January exceeds the amount of your Social Security benefit in December.

*Example:* Mrs. Y was initially eligible for payment of SSI benefits in October. Her benefit amount for November will be based on her countable income in October (first prior month).

(3) *Third month of initial eligibility for payment or third month of eligibility after a month of ineligibility.* We use your countable income according to the rule set out in paragraph (a) of this section to determine how much your benefit amount will be for the third month of initial eligibility for payment or the third month of reeligibility after at least a month of ineligibility.

*Example:* Mrs. Y was initially eligible for payment of SSI benefits in October. Her benefit amount for December will be based on her countable income in October (second prior month).

(4) *Income derived from certain assistance payments.* We use your income in the current month from the programs listed below to determine your benefit amount for that same month. The assistance programs are as follows:

- (i) Aid to Families with Dependent Children under title IV-A of the Social Security Act (the Act);
- (ii) Foster Care under title IV-E of the Act;
- (iii) Refugee Cash Assistance pursuant to section 412(e) of the Immigration and Nationality Act;
- (iv) Cuban and Haitian Entrant Assistance pursuant to section 501(a) of Pub. L. 96-422; and
- (v) Bureau of Indian Affairs general assistance and child welfare assistance pursuant to 42 Stat. 208 as amended.

(c) *Reliable information which is currently available for determining benefits.* The Commissioner has determined that no reliable information exists which is currently available to use in determining benefit amounts.

(1) *Reliable information.* For purposes of this section *reliable information* means payment information that is maintained on a computer system of records by the government agency determining the payments (e.g., Department of Veterans Affairs, Office of Personnel Management for Federal civil service information and the Railroad Retirement Board).

(2) *Currently available information.* For purposes of this section *currently available information* means information that is available at such time that it permits us to compute and issue a correct benefit for the month the information is pertinent.

(d) *Payment of benefits.* See subpart E of this part for the rules on payments and the minimum monthly benefit (as explained in §416.503).

[50 FR 48571, Nov. 26, 1985; 50 FR 51514, Dec. 18, 1985, as amended at 54 FR 31657, Aug. 1, 1989; 62 FR 30751, June 5, 1997; 63 FR 33546, June 19, 1998; 64 FR 31973, June 15, 1999]

**§416.421 Determination of benefits; computation of prorated benefits.**

(a) In the month that you reacquire eligibility after a month or more of ineligibility (see §416.1320(b)), your benefit will be prorated according to the number of days in the month that you